IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR
S.B. Civil Misc. Writ Petition No.6634/07
Smt. Kamlesh & Ors. Vs. Sursh Chand Mehra & Ors.

31.8.2007

Hon'ble Mr. Justice Mohammad Rafiq

Shri Gaurav Gupta for petitioners.
Shri G.C. Garg for respondents.

The petitioners have challenged the order dated 1.5.2007 whereby an amount of Rs.35,000/- has been awarded as compensation, but a condition was imposed to the effect that the claimants can withdraw the amount of compensation only on production of security from the owner of the vehicle.

Challenge was made on similar grounds to the condition requiring the claimants to submit solvent security from the owner of the vehicle in number of

similar writ petitions in the past. Co-ordinate benches of this Court in Smt. Rama & Balwant Singh, S.B. Civil Writ Petition No.71/06, Banwari Lal Vs. Gopi Ram, S.B. Civil Misc. Appeal No.481/05, Sheoji Ram Mali Vs. The Judge, ADJ (F.T.) No.7, Jaipur & City & Ors., Kumari Nargis Vs. Karan Singh & Ors., S.B. Civil Misc. Appeal No.356/05 & Manju (Smt.) & Ors. Vs. Addl. District & Session Judge & Ors. and by this Court in Smt. Uganti Devi & Ors. Vs. MACT, Jaipur City & Ors., S.B. Civil Writ Petition No.2999/07 wherein it was held that the aforesaid condition is unreasonable and unjustified and therefore that was waived.

Learned counsel for the respondent submits that the direction for deletion of the aforesaid condition would prejudice their case in appeal which the insurance

company may file against the aforesaid award. His apprehension appears to be wholly unfounded because the release of the amount as per the award in question would always been subject to interim order that may be passed in appeal.

Having gone through the aforesaid judgments, I find myself in agreement with the view taken therein. The condition of making the payment of compensation to the claimants to depend upon the factum of security being furnished by the owner of the vehicle involved in the accident can neither be said to be justified nor reasonable.

The impugned condition is therefore ordered to be deleted and it is directed that the amount of compensation shall be forthwith released to the claimants subject to the scheme of investment etc. evolved by

the Tribunal in the award.

The writ petition is accordingly allowed.

(Mohammad Rafiq),J.

anil/-